

**FILED**

**APR 11 2007**

RICHARD J. W. KING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

CHARLES VANEY QUEEN,

No. C 99-21067 JW (PR)

Petitioner,

v.

ANTHONY C. NEWLAND, Warden,

Respondent.

**ORDER SETTING DATES FOR  
EVIDENTIARY HEARING, PRETRIAL  
CONFERENCE, FILING OF PRETRIAL  
STATEMENTS, AND DISCOVERY  
DEADLINES**

Having reviewed the Joint Status Report and Stipulation/Request to Reset Evidentiary Hearing filed by the parties, the Court finds that an evidentiary hearing is warranted on the question whether Petitioner is entitled to equitable tolling based on his mental health and his alleged lack of access to AEDPA materials. Accordingly, the following schedules are hereby set:

The evidentiary hearing shall take place on **August 22 and 23, 2007**, in Courtroom 8 on the Fourth Floor of the United States District Court for the Northern District of California in San Jose. The hearing shall commence each morning at **9:00 a.m.** and proceed until **noon**, and then continue from **1:00 p.m.** until **4:00 p.m.** Although the hearing has been set for two full days, the parties shall notify the Court at the pretrial conference whether a shorter hearing is likely.

A pretrial conference is set for **August 14, 2007 at 9:00 a.m.** in Courtroom 8. The parties

1 shall file their pretrial statements on or by **August 6, 2007**.

2 Good cause appearing, the parties are granted leave to engage in discovery under Rule 6(a) of  
3 the Federal Rules Governing Section 2254 Cases, 28 U.S.C. foll. § 2254. Discovery shall proceed in  
4 accord with the Federal Rules of Civil Procedure. Leave of the Court pursuant to Rule 30(a)(2) is  
5 hereby granted to the parties to depose Petitioner and any other necessary witnesses confined in  
6 prison. All pretrial discovery and disclosure shall be completed by **June 15, 2007**.

7 On or by **July 13, 2007**, the parties shall exchange exhibits and other trial materials,  
8 including witness lists, and shall lodge copies of their exhibits and trial materials with the Court.  
9 The parties shall also designate any excerpts from depositions they anticipate offering at the hearing  
10 other than for impeachment.

11 On or by **July 23, 2007**, the parties shall advise each other of any objections to the receipt  
12 into evidence of any proposed testimony or exhibit, and will confer regarding such objections within  
13 the next five days.

14 Any and all discovery motions shall be filed with the Court on or by **July 2, 2007**. All  
15 oppositions shall be filed by **July 16, 2007**, and all replies shall be filed by **July 23, 2007**. All  
16 discovery motions will be decided by the Court, and will not be referred to a Magistrate Judge unless  
17 the parties are so notified.

18 IT IS SO ORDERED.

19 Dated: *April 11, 2007*

  
JAMES WARE  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

QUEEN, ET AL,

Plaintiff,

v.

NEWLAND,

Defendant.

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Case Number: CV99-21067 JW

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

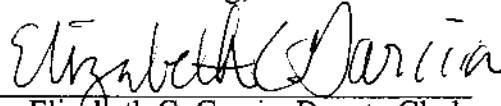
That on April 11 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

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Dated: April 11 2007

Richard W. Wieking, Clerk

  
By: Elizabeth C. Garcia, Deputy Clerk